

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Feb 06, 2025

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SCOTT W. HUMPHREYS,

Plaintiff,

v.

STATE OF WASHINGTON, et al.,

Defendants.

No: 2:24-CV-405-MKD

ORDER DENYING LEAVE TO
PROCEED *IN FORMA PAUPERIS*
AND DISMISSING ACTION

ECF No. 5

On January 9, 2025, the Court directed Plaintiff, a *pro se* prisoner at the Airway Heights Corrections Center, to show cause why the Court should grant his application to proceed *in forma pauperis*. ECF No. 8 at 3. In the alternative, Plaintiff could have paid the \$405 filing fee. *Id.*

On January 23, 2025, Plaintiff filed a Response to the Order to Show Cause. ECF No. 9. After careful review of Plaintiff's submission, the Court finds that Plaintiff has failed to demonstrate that he was under imminent danger of serious physical injury when he initiated this case, and is thus precluded under 28 U.S.C. §

1 1915(g) from proceeding in this action without prepayment of the filing fee. *See*
2 *O’Neal v. Price*, 531 F.3d 1146, 1153 (9th Cir. 2008).

3 Plaintiff’s Response to the Order to Show Cause is difficult to decipher. He
4 does not appear to dispute the Court’s finding that he filed three or more actions
5 while a prisoner that were dismissed as frivolous, malicious, or for failure to state a
6 claim upon which relief may be granted. *See* ECF No. 8 at 2. Further, he does not
7 appear to assert that he was under “imminent danger of serious physical injury”
8 when he filed his complaint on December 4, 2024. *See* 28 U.S.C. § 1915(g);
9 *Andrews v. Cervantes*, 493 F.3d 1047, 1055-56 (9th Cir. 2007); *see also Ray v.*
10 *Lara*, 31 F.4th 692, 701 (9th Cir. 2022) (holding that “the imminent danger
11 exception to the PLRA three-strikes provision requires a nexus between the alleged
12 imminent danger and the violations of law alleged in the complaint.”).

13 Liberally construing his assertions in the light most favorable to Plaintiff, the
14 Court finds that he has failed to overcome the preclusive effects of 28 U.S.C. §
15 1915(g). Because Plaintiff did not avail himself of the opportunity to pay the \$405
16 filing fee, he may not proceed with this action.

17 Accordingly, **IT IS ORDERED:**

18 1. Plaintiff’s application to proceed *in forma pauperis*, **ECF No. 5**, is
19 **DENIED**.

20 2. This action is **DISMISSED WITHOUT PREJUDICE** for non-
21 payment of the filing fee as required by 28 U.S.C. § 1914.

1 3. The Court certifies that any appeal of this dismissal would not be
2 taken in good faith.

3 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,
4 enter judgment, and provide copies to Plaintiff, and **CLOSE THE FILE.**

5 DATED February 6, 2025.

6
7 s/Mary K. Dimke
8 MARY K. DIMKE
9 UNITED STATES DISTRICT JUDGE
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